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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,235	02/14/2002	Masamitsu Kojima	1207-93	6222

7590 08/08/2003

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EXAMINER

SCHWARTZ, CHRISTOPHER P

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 08/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
10/074,235

Applicant(s)  
Kojima et al.

Examiner  
Schwartz

Art Unit  
3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5 6) ☐ Other:

CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER

Art Unit:

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement has been received and considered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-10,12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese publication 2605841 in view of Potter '945.

Regarding claims 1,2 '841, as best understood, discloses a rotary damper for a seat comprising a pair of relatively movable members 31,31 and 14.

Art Unit:

It is unclear what type of damping medium the Japanese publication '841 uses.

The reference to Potter discloses a shear damper and the use of silicone rubber which may be used as a damping medium between relatively movable parts 52 and 56. See column 3 lines 18+.

One having ordinary skill in the art at the time of the invention would have found it obvious to have utilized silicone rubber as the damping medium in the damper of '841 for the reasons discussed on column 3 of Potter and as an alternative choice of one damping medium for another well known one. Further it would have been obvious to have used "unvulcanized" silicone rubber depending upon the damping properties desired or to save on expense.

Regarding claims 3-5 to have used a silicon based rubber with the claimed range of plasticity in '841, as modified, would have been obvious dependent upon the damping properties desired. Note the modifying reference to Potter is not material specific regarding the selection of the viscoelastic material (presumably with differing degrees of plasticity).

As broadly claimed the limitations of claims 6-10 are met by the combination of references above.

Regarding claims 12-19 note the '841 device, as modified, is to be utilized with a seat having a backrest as shown in figure 3.

4. Claims 1-5,11 rejected under 35 U.S.C. 103(a) as being unpatentable over Potter.

Art Unit:

Regarding claims 1,2 the reference to Potter discloses a shear type damper in figures 5-7 comprising plates 83 and 84 with silicone rubber layers therebetween but does not disclose whether the rubber layers are unvulcanized.

It would have been obvious to one of ordinary skill in the art to have used “unvulcanized” silicone rubber depending upon the damping properties desired or to save on expense.

Regarding claims 3-5 to have used a silicon based rubber with the claimed range of plasticity would have been obvious dependent upon the damping properties desired. Note the reference to Potter is not material specific regarding the selection of the viscoelastic material (presumably with differing degrees of plasticity).

Regarding claim 11 these requirements are met.

5. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimoda in view of Potter or Thorn et al.

Regarding claims 1-11 Shimoda shows two embodiments of a damper in figures 6-8 which uses lead as the damping medium. Note the projections 52 and grooves spaced therebetween as shown in figure 7.

However it is well known to use silicone rubber as this medium for its resistance to temperature changes. See Potter column 3. Also see Thorn et al.

To have substituted a silicon based rubber for lead in the device of Shimoda with the claimed range of plasticity in ‘841, as modified, would have been obvious dependent upon the damping properties desired. Note the modifying reference to Potter is not material specific

Art Unit:

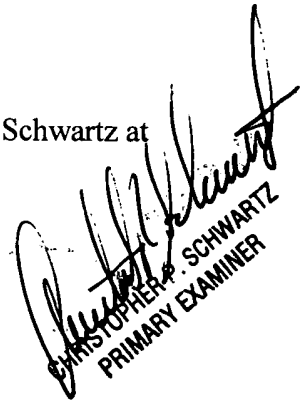
regarding the selection of the viscoelastic material (presumably with differing degrees of plasticity).

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Note the use of silicon rubber in Friedrichsen et al..

7. Any inquiry concerning this communication should be directed to Chris Schwartz at telephone number 703-308-0576..

  
CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER